REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1877

A BILL To provide for the reinstatement and validation of United States oil and gas lease numbered NM–12846.

S. 1908

A BILL To provide for the reinstatement and validation of United States oil and gas lease NM–A26947 (Oklahoma).

S. 1909

A BILL To provide for the reinstatement and validation of United States oil and gas lease numbered W–24153.

S. 1941

A BILL To provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452 Acq.

S. 2095

A BILL Directing the Secretary of the Interior to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Incorporated, New Mexico.

S. 2146

A BILL To extend the lease terms of Federal oil and leases, W66245, W66246, W66247, and W62250.

S. 2481

A BILL To provide for the reinstatement and validation of United States oil and gas lease numbered W 61985.

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REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES

FRIDAY, MAY 7, 1982

U.S. SENATE,
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 3110, Dirksen Office Building, Hon. John W. Warner, presiding.

Present: Senator Warner.

Also present: Roger Sindelar, counsel; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JOHN W. WARNER, A U.S SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. The Subcommittee on Energy and Mineral Resources has before it seven separate bills dealing with oil and gas leases. Most of the bills deal with reinstating and validating leases which automatically terminated by law for failure, for one reason or another, to pay the annual rental due on the lease.

However, there are some notable exceptions to this general observation. We will now have testimony from Mr. David C. Russell, Deputy Assistant Secretary, Office of the Assistant Secretary, Land and Water Resources '

Before that time, I will put into the record a statement by Senator Domenici on S. 2095, by Senator Domenici on S. 1877; a statement by Senators Garn and Hatch on S. 2146; a statement by Senator Nickles on S. 1908 and S. 1909.

[The texts of the bills and statements of Senators Domenici, Garn, Hatch, and Nickles follow:]

97TH CONGRESS
1ST SESSION

S. 1877

To provide for the reinstatement and validation of United States oil and gas lease numbered NM–12846.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1981

Mr. DOMENICI (for himself and Mr. SCHMITT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the reinstatement and validation of United States oil and gas lease numbered NM–12846.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas lease numbered NM–12846 shall be held not to have terminated by operation of law or otherwise on January 2, 1981, but shall be deemed to be in full force and effect and said lease shall be extended for a period of two years from

October 19, 1981, the date the leaseholder of record received notice from the Bureau of Land Management that the lease expired, and for so long thereafter as production continues and all other terms of the lease are met: *Provided,* That within thirty days after the receipt by the last leaseholder of record of said lease of written notice from the Secretary of the Interior of the amount of rental then accrued to the United States under said lease and unpaid by said leaseholder, said leaseholder shall tender payment of said amount of rental. Notice shall be given by the Secretary within thirty days after the effective date of this Act.

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97TH CONGRESS
1ST SESSION

S. 1908

To provide for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma).

IN THE SENATE OF THE UNITED STATES

DECEMBER 3 (legislative day, NOVEMBER 30), 1981

Mr. NICKLES (for himself and Mr. BOREN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law or regulation, United States oil and gas lease NM-A26947 (Oklahoma) shall be held not to have terminated by operation of law or otherwise on January 1, 1981, but shall be deemed to be in full force and effect and the terms of said lease extended for a period equal to the unexpired portion of the lease remaining on January 1, 1981, and so long therafter as oil and

gas is produced in paying quantities: *Provided*, That within thirty days after the receipt of written notice from the Secretary of Interior of the amount of rental then accrued to the United States under said lease and unpaid by the last recordholder of said lease, said recordholder shall tender payment of said amount of rental. Notice shall be given by the Secretary within thirty days after the effective date of this Act.

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97-255 O—82——2

97TH CONGRESS
1ST SESSION

S. 1909

To provide for the reinstatement and validation of United States oil and gas lease numbered W-24153.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3 (legislative day, NOVEMBER 30), 1981

Mr. Ni[illegible] (for himself and Mr. BOREN) introduced the following bill; which was read twice [illegible] referred to the Committee on Energy and Natural Resources

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A BILL

To provide for the reinstatement and validation of United States oil and gas lease numbered W-24153.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law or regulation, United States oil and gas lease numbered W-24153 shall be held not to have terminated by operation of law or otherwise on or about May 31, 1980, but shall be deemed to have been duly communitized on such date with United States oil and gas lease numbered W-47820 and shall be deemed otherwise to continue in full force and effect in ac-

cordance with its terms so long as oil or gas is produced in paying quantities from the unit so constituted: *Provided*, That, within sixty days of the effective date of this Act, the last recordholder of lease numbered S–24153 and the recordholder of lease numbered W–47820 shall file an agreement in due form with the Secretary or his delegate evidencing the communitization of said leases which agreement shall be approved by the Secretary or his delegate retroactively to a date prior to May 31, 1980: *And provided further*, That within thirty days after the receipt of written notice from the Secretary or his delegate of the amount of any rental then accrued to the United States under lease numbered W–24153 and unpaid by the last recordholder of said lease, said recordholder shall tender payment of said amount of rental. Such notice shall be given by the Secretary within thirty days after the effective date of this Act.

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97TH CONGRESS
1ST SESSION

S. 1941

To provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452 Acq.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11 (legislative day, NOVEMBER 30), 1981

Mr. TOWER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452 Acq.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior or his authorized agents or representatives and upon compliance with the next sentence of this Act, United States oil and gas leases numbered NM 25447 and NM 25452 Acq. shall be held not to have terminated by operation of law or otherwise on July 1,

1980, but shall be deemed to be in full force and effect and the terms of such leases extended for two years from the date on which the lessee received notice that the leases expired for nonpayment of rent, and so long thereafter as oil and gas is produced in paying quantities. Within thirty days after the receipt of written notice from the Secretary of the Interior of the amount of rental then accrued to the United States under such leases and unpaid by the last recordholder of such leases, the recordholder shall tender payment of the amount of rental. Notice shall be given by the Secretary within thirty days after the date of enactment of this Act.

97TH CONGRESS
2D SESSION

S. 2095

Directing the Secretary of the Interior to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Incorporated, New Mexico.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, JANUARY 25), 1982

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

Directing the Secretary of the Interior to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Incorporated, New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, or regulation issued pursuant thereto, the Secretary of the Interior is authorized and directed to issue to the Ballard E. Spencer Trust, Incorporated, New Mexico, an oil and gas lease covering parcel 19, Eddy County, New Mexico which parcel was one of thirty-five parcels in the State of New Mexico with respect to which, on February 19, 1974, the Bureau of Land Management published a Notice of Lands Available for Oil

and Gas Filings in accordance with the noncompetitive leasing provisions of the Mineral Leasing Act.

(b) Upon application submitted by the Ballard E. Spencer Trust, Incorporated, within one hundred and twenty days following the date of the enactment of this Act, such parcel required to be leased by this Act shall be leased to such corporation in the same manner as if the entry card heretofore filed by the Ballard E. Spencer Trust, Incorporated, with the Bureau of Land Management, covering such parcel 19, had contained all the information required by law and applicable regulations, the said corporation having failed to supply a certain part of such information through no fault of its own.

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97TH CONGRESS
2D SESSION

S. 2146

To extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W62250.

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 22), 1982

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W62250.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to extend United States oil or gas leases issued under section 17 of the Mineral Lands Leasing Act of 1920, as amended, designated "W66245, W66246, W66247, and W62250", and presently known as the Toledo Unit in Lincoln County in the State of Wyoming, and which would otherwise expire forty-eight days after the termination of United States Department of the Interior administrative suspension of oper-

ations and lease terms currently in effect, until two years after the effective date of this Act or the termination of the period of suspension, whichever comes later, and so long thereafter as oil and gas is produced in paying quantities as defined under the Mineral Lands Leasing Act: *Provided, however,* That except as specifically modified herein as to such leases, all other provisions of the Mineral Lands Leasing Act of 1920, as amended, shall be applicable as to such leases.

SEC. 2. The effective date of this Act shall be the date the leases specified in section 1 would have expired by operation of law, but for the passage of this Act.

97-255 O—82——3

97TH CONGRESS
2D SESSION

S. 2481

To provide for the reinstatement and validation of United States oil and gas lease numbered W 61985.

IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, APRIL 13), 1982

Mr. TOWER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To provide for the reinstatement and validation of United States oil and gas lease numbered W 61985.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior or his authorized agents or representatives and upon compliance with the next sentence of this Act, United States oil and gas lease numbered W 61985 shall be held not to have terminated by operation of law or otherwise on February 1, 1982, but shall be deemed to be in full force and effect and the terms of such lease extended for one year from the date on which the lessee

received notice that the lease expired for nonpayment of rent, and so long thereafter as said lessee shall pay the annual rental or as oil and gas is produced in paying quantities. Within thirty days after the receipt of written notice from the Secretary of the Interior of the amount of rental then accrued to the United States under such lease and unpaid by the last recordholder of such lease, the recordholder shall tender payment of the amount of rental. Notice shall be given by the Secretary within thirty days after the date of enactment of this Act.

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STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO, ON S. 1877

Mr. Chairman, I want to thank you for holding these hearings today. S. 1877 is a bill which provides for the reinstatement and validation of United States oil and gas lease number NM-12846.

Basically, the facts, as I know them, are that Gulf Oil was issued a 10-year lease effective January 1, 1971. The lease involved some 800 acres in Lea County, New Mexico. The term of the lease was to expire on December 31, 1980.

Drilling operations were being conducted after the expiration date. The lessee did not reach the proposed depth until September 1981, at which time the U.S. Geological Survey advised the Bureau of Land Management that the operations were diligent and that the lessee was entitled to a 2-year extension.

On October 7, 1981, the lease was extended until December 31, 1982. However, it was then found that the rent for the 11th year, which was due on January 2, 1981, had not been paid until August 17, 1981.

Consequently under law the lease was terminated for failure to pay rent in a timely manner. On October 15 of that same year the decision extending the lease was vacated.

I think the record shows that the company demonstrated an intent to develop the leasehold in a expeditious manner.

The record also shows that the company has filed a report with the U.S. Geological Survey which says that a well on the leasehold has an initial protential of 1,050,000 cubic-feet of gas per day. Currently it is my understanding that the well is presently shut down pending completion of pipeline construction.

Mr. Chairman, the failure to pay timely rent was unquestionally an administrative error. Based on the preceding information equity clearly demands the lease be reinstated. It is a also my understanding that the Department of Interior does not object to enactment of this bill.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO, ON S. 2095

Mr. Chairman, I want to thank you for holding these hearings today. S. 2095 is a bill which provides for the issuance of a particular oil and gas lease in New Mexico.

The facts as I know them in this case are as follows:

On February 19, 1974 the Bureau of Land Management published a Notice of Lands Available for Oil and Gas Filings in accordance with provisions of the Mineral Leasing Act.

An application for that parcel was submitted by the Ballard E. Spencer Trust, Incorporated. Later when the drawing for parcel 19 (one of 35 parcels involved in the drawing) was held the application by Ballard Spencer was drawn.

The Bureau of land Management then ruled that the application was improperly filled out and that the parcel should be awarded to a secondary applicant.

That decision was appealed to the Department of Interior Board of Land Appeals who upheld the BLM decisions based on existing regulations. The case was later appealed to Federal District court which also upheld the decision of the BLM.

To explain more fully what this case involves I would add that the application card was correctly filled out with one small exception that I would assert was not the fault of the applicant.

According to BLM regulations, the applicant was supposed to place the identity number at some location on the card. What the regulations failed to point out was the fact that the application card at that time had no place designated for the identity number.

The applicant did have a bona fide identity number and if BLM personnel would have performed a simple cross-check of their files they would have found it. However, regulations as they existed at that time, did not call for a cross-check.

S. 2095 requires that within 120 days following the date of enactment of this Act, the parcel involved shall be leased in the same manner as if the entry card that had been filed by the applicant with the BLM, covering parcel 19 has contained all of the information required by law and applicable regulations and that the Secretary is authorized and directed to issue the oil and gas lease to the Ballard E. Spencer Trust.

Basically, I feel the facts show that a wrong was done to the Trust and that the lease should be issued.

STATEMENT OF HON. JAKE GARN, A U.S. SENATOR FROM THE STATE OF UTAH, ON S. 2146

Mr. Chairman: Senator Hatch and I have introduced a private bill, S. 2146, on behalf of Toledo Mining Company of Utah.

Due to a series of unintentionable misrepresentations by some of its working partners, Toledo Mining Company has come within forty-eight days of losing four segregated federal oil and gas leases in the state of Wyoming. At the present time, in order to facilitate environmental studies, the U.S. Department of Interior has granted a routine administrative suspension covering the four leases and has thereby prevented their expiration from occurring. Since recognizing its own neglect, Toledo Mining Company has shown good faith and diligence in attempting to bring the aforementioned leases into production.

Unfortunately, Mr. Chairman, drilling twenty thousand feet requires more time than is remaining under the administrative suspension now in force. Toledo Mining Company has given every intention of diligently moving to bring the leases into production. I am convinced that to simply allow these leases to expire would be counter to the national interest of domestic energy production.

I appreciate the attention you have given this legislation and trust it can be favorably considered by this Subcommittee.

Thank you.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH, ON S. 2146

Mr. Chairman, thank you very much for the opportunity to submit this statement in support of S. 2146, a bill to extend the terms of four federal oil and gas leases in Wyoming held by Toledo Mining Company, a Utah-investor owned corporation. I regret I could not appear personally before the Subcommittee.

Enactment of this bill would correct a series of unintentional misrepresentations to Toledo by some of its working partners, which have caused the company to come within 48 days of losing its leases. The leases have not expired; they are presently within a routine administrative suspension by the U.S. Department of the Interior in order to facilitate environmental studies before drilling. This suspension also stops the running of the lease "clock." Soon the suspension will end, however, and the leases will then expire in 48 days.

I emphasize again, Mr. Chairman, that the Toledo leases have not yet expired. The factual background of this problem demonstrates that equity and fairness would be served by enacting S. 2145 and extending the terms of these leases. The Congress has several times passed similar legislation, even reinstating leases that have expired.

I strongly urge favorable action on this bill by the subcommittee.

Thank you very much, Mr. Chairman.

STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA, ON S. 198 AND S. 1909

I wish to thank the chairman and this subcommittee for today's hearing on several bills providing for the reinstatement and validation of various U.S. oil and gas leases. Two of the bills which will be considered by the subcommittee today were introduced by me and cosponsored by Senator Boren on December 3.

Those bills, S. 1908 and 1909, involve mineral leases in Oklahoma and Wyoming. Those leases were not lost as a result of a lack of good faith on the part of the lease owners, but rather as a result of clerical oversight. As the subcommittee will find from today's testimony, in one case there was a $160 delayed rental payment while in the other the filing of a Federal form was overlooked.

However in both cases, the owners of the leases invested hundreds of thousands of dollars for development of minerals and subsequently lost the leases and that investment due to the innocent errors discussed above.

I am hopeful that my colleagues will proceed with swift and favorable action on both pieces of legislation after consideration today of their merits.

Thank you Mr. Chairman.

Senator WARNER. Secretary Russell, we are glad to see you again before the committee.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DALE ZIMMERMAN, SENIOR MINERALS COUNSEL TO DIRECTOR, BUREAU OF LAND MANAGEMENT

Mr. RUSSELL. Thank you, Mr. Chairman. With me today is Mr. Dale Zimmerman. He is senior minerals counsel to the Director of the Bureau of Land Management.

With your permission, Mr. Chairman, I would like to submit the statements for the record, abbreviate them, and add a general comment at the beginning.

With the seven bills reviewed today, we, the Department, have testified on at least 15 oil and gas lease reinstatement bills of this Congress, many of which were introduced because of undeniable equities on the side of the former lessees. In most instances, our response has been we do not object to enactment.

This is a change from traditional departmental positions, because we, too, understand the equities and have suggested on more than one occasion that the Mineral Leasing Act, as amended, may be too inflexible, particularly with regard to late payment of oil and gas lease rentals.

Mr. Chairman, you and Chairman McClure and staff have recognized this in earlier hearings. Chairman McClure's staff has asked the Department for language, that is still being worked out, which would yield to the Department some flexibility in dealing with late rental payments, clerical errors in payments, et cetera.

A noncontroversial technical amendment package of this nature.

Senator WARNER. I think it would be helpful to get involved with that.

Mr. RUSSELL. Yes, sir, we will pursue that. The first bill is S. 1877. It is a New Mexico oil and gas lease. The lease was issued in 1971 for a period of 10 years. It is a noncompetitive oil and gas lease. Drilling operations were being conducted on the expiration date at the end of 1980 so the lease did not expire.

The lessee reached the proposed depth they were shooting at in September 1981, at which time the Geological Survey notified the Bureau of Land Management that the operations were diligent and that Gulf, the lessee, was entitled to a 2-year extension.

The 2-year extension was granted on October 7, 1981, but it was subsequently determined that the lease had terminated earlier that year because of failure by the Gulf to pay rent for the 11th year of the lease. Gulf had paid the rent late, rent was paid August 17, 1981. It was due the beginning of the year.

On February 8, 1982, the Department entered into an agreement with Gulf to permit continued operation of the well, pending enactment of legislation. Receipts less operating costs are now being held in escrow.

Gulf's actions in this matter, we believe, indicate a diligent pursuit of expeditious development of the lease. We have no objection to enactment and we feel reinstatement of the lease would be in the national interest.

We have a technical amendment we would offer. We will propose that to the staff. We feel it is of a technical nature. Would you like us to proceed to the next bill?

The next bill is S. 1908. It would reinstate and validate an Oklahoma oil and gas lease. The lease in question was issued competitively to Monsanto Corp. for a 5-year period, effective in 1976. The lease was communitized with other adjoining leases. Monsanto paid a bonus of over $32,000 for the Government's 50-percent undivided interest. There is a corresponding 50-percent private interest.

A well was completed on the private portion of the communitized area. Production was obtained in May 1981. Since drilling occurred prior to the expiration date of the lease, the lease was eligible for an extension for 2 years. However, payment for the sixth year's rent was required. That payment was not made and the lease was held to have been terminated by operation of law in early 1981.

We have been advised that the operator under the communitization agreement stopped production when an accident caused the well to shut down. The well will have to be redrilled. The operator has accrued at least $500,000 from the well. No royalties have been paid yet to the Department and that $500,000 is currently being held in suspense.

The testimony indicates escrow. That should be suspense.

Royalty due the United States under the lease is about $62,765. If the lease is not reinstated the United States will receive all funds achieved from production of the Federal estate which accrued after December 1980, the date the lease was terminated.

The early communitization of the lease and the diligent operation of the well demonstrate the good faith of both Monsanto and the operator of the lease. Reinstatement of the lease, we believe, would allow the operator to redrill the well and continue operation.

We have an amendment here which may be beyond what you would term a technical amendment. We believe that if the lease is reinstated the reinstatement should be conditioned on the payment to the United States of all royalties plus interest presently owed the Government for production which occurred on the lease unit. In addition, there is a technical amendment.

S. 1909 is a Wyoming oil and gas lease, noncompetitive, issued for a 10-year term effective 1970 on the east half of section 26, to Devon and Eason Oil Cos., each company being assigned a 50-percent working interest in the lease. A lease on the west half of section 26 had been issued to Tenneco.

Devon was unable to obtain a permit to drill from the State of Wyoming because of State spacing requirements. Devon, Eason, and Tenneco entered into a communitization agreement, while still in the 10-year lease term. Through an administrative oversight, the agreement was timely not filed with the Geological Survey as is required by regulation.

Devon did apply to the Geological Survey for permission to drill a well and that was approved in December 1979. The well was spudded as a gas well and is currently shut in awaiting pipeline construction.

Devon submitted rental checks to the Bureau of Land Management, but because there had been no drilling on the leasehold that

would make it eligible for extension and because it was not part of an approved communitization agreement, it had expired.

We have no objection to reinstatement of that lease. Devon has demonstrated an early and sincere effort to develop its leasehold. Although its initial intent was delayed by Wyoming's spacing order, Devon persisted in its development efforts and succeeded in developing a producing well in cooperation with Tenneco.

We don't believe that an administrative oversight of this nature should be allowed to halt a clearly demonstrated intention to proceed with oil and gas production.

The next bill is S. 1941, two New Mexico leases issued to Hixon Development Co. The terms of the leases, would be extended for 2 years by the passage of this bill. The two oil and gas leases referred to in S. 1941 were competitively issued for five-year lease terms beginning in 1975.

In 1980 the Geological Survey notified BLM that both leases qualified for 2-year extensions inasmuch as there was diligent drilling prior to the expiration date. No extensions were granted, because the lessee, Hixon Development Co., failed to pay the rental due on July 1.

However, Hixon had been diligently drilling at considerable expense prior to the lease expiration date and had duly notified Geological Survey of that fact. Hixon was acting in a manner that was customary for similar operations on State and private leases in the area and we do not object to enactment.

We have a couple of quite technical amendments to that bill.

Senator WARNER. Was there any obligation to have public notice of this hearing so that someone could contest the statement that we are hearing today?

Mr. RUSSELL. The committee has notice requirements prior to hearing and there was adequate published opportunities.

Senator WARNER. There was adequate notice to the general public of this hearing with respect to these leases?

Mr. RUSSELL. Yes, sir, procedures were followed for this hearing.

Senator WARNER. If anyone had objection to the bill they could have appeared today?

Mr. RUSSELL. That is correct.

The next bill is S. 2095. It is a New Mexico oil and gas offer to lease. It is not an existing lease, but an offer to lease by the Spencer Trust Co. The Spencer Trust, as a participant in the simultaneous oil and gas leasing program, was given first priority in a drawing held in February 1974 in New Mexico.

Because the corporation failed to adequately comply with regulations covering qualification statements, the application was rejected. A protest was filed with BLM by the company but was dismissed. The corporation filed an appeal with the Interior Board of Land Appeals, which upheld the BLM decision.

After exhausting administrative remedies, the corporation appealed to the U.S. district court and than to the U.S. Circuit Court of Appeals. The courts upheld the rejection and said the Secretary was within his discretion.

After it was established that the Spencer Trust Corp. had unsuccessfully pursued all available administrative and judicial reme-

dies, and only then, was a lease covering that parcel issued to the second priority participant.

We are opposed to enactment of S. 2095 for those reasons. This is not an unusual circumstance. Many such offers have been denied under similar circumstances.

Senator WARNER. Would you just wait a minute? I just inquired of the staff committee chief, whether they would have objection, to the Chair, to delete this bill from the calendar. There is no objection by Senator Domenici and therefore we will delete this bill from the calendar.

Mr. RUSSELL. That is fine.

The next bill is S. 2146. It involves the Toledo Mining Co. It is a live lease with 48 days remaining in its term. The lease is now under suspension by order of the Geological Survey based on restrictions imposed by the surface managing agency, the Forest Service. It is in the Toledo Unit of the Bridger-Teton National Forest in Lincoln County, Wyo.

The leases are due to expire, as I noted, in 48 days after the suspension is lifted. S. 2146 would provide an extension for 2 years from the date of enactment or the termination of the suspension. In 1980 an acceptable application for permit to drill was submitted to the USGS. The Forest Service, however, which is the surface managing agency, stated that the public scoping process, field review, and preparation of an environmental analysis would require at a minimum more than 2 months under optimum conditions.

The Forest Service also advised that given the remoteness and high altitude of the location and the onset of winter, it would be unable to perform the necessary field work before the summer of 1981.

As a result of the information received from the Forest Service in November 1980, USGS in early 1981 granted a suspension of lease terms and rental payments for the four leases. If a drilling permit is issued and drilling operations are commenced, the lessees will have only 48 days within which to have a well capable of producing in paying quantities, which under law, is the only means by which these leases can be extended.

We believe that that period of time may be too short to accomplish what needs to be done by virtue of production. Therefore, we have no objection to enactment of this bill, provided it is amended to condition any extension of the leases on the granting of a permit to drill and to authorize the Secretary of the Interior to insert additional restrictive stipulations in the lease, stipulations to protect the surface values.

We are not necessarily in this instance, and I am sure the Forest Service would agree, we are not necessarily suggesting a no surface occupancy lease here.

There are several technical amendments to this bill as well.

The last bill on the list is S. 2481. It is Senator Tower's bill. It is a Wyoming lease.

Senator WARNER. I don't see S. 2481 on my calendar. I want to make sure notice was given. Is it just a typographical error?

Mr. RUSSELL. We received a letter from Senator Tower on May 5, suggesting that he would be working with the committee to try to get that bill on the calendar.

Senator WARNER. I want to make sure it is here. You may proceed .

Mr. RUSSELL. The lease comprises 440 acres——

Senator WARNER. You are on 2181?

Mr. RUSSELL. 2481. The lease comprises 440 acres in Campbell County, Wyo., as the result of a simultaneous oil and gas lease drawing. The lease was issued for a 10-year period, beginning February 1978.

Senator WARNER. We don't seem to have your statement on 2481.

Mr. RUSSELL. It was just delivered this morning. We had a rather short turn-around on this bill.

The lease was issued in February 1978 and at the time the lease was issued the involved area had not been designated a known geologic structure. That is an area in which there would be competitive leasing. As a result the original rent was $1 per acre, a total of $440.

Tesoro Petroleum Corp. purchased the rights to the lease. Tesoro was notified that the lease had been designated as falling within a KGS and the rent would be $2 an acre or $880 total and that occurred in August 1981. Evidently that notice was misfiled by Tesoro. On December 17, 1981, Tesoro forwarded to the Bureau of Land Management a check for $440 as payment for the annual rental due.

On January 11, 1982, Tesoro received a courtesy billing regarding the $880 annual rent due on February 1, 1982, which they had not paid as yet. From information prepared by Tesoro it appears that the courtesy billing was also misfiled.

On March 4, 1982, the Bureau of Land Management notified Tesoro that the lease had automatically terminated by operation of law for failure to pay rent. Tesoro tendered payment for the additional $440 on March 8 and filed a notice of appeal. The BLM did not consider the request to reinstate because the rent had not been received within 20 days of the due date, that is, by close of business Feburary 22, 1982, and because of the Mineral Leasing Act, as amended, BLM lacked the authority to reinstate.

It is now pending before IBLA on appeal. Tesoro has asserted that it has invested $60,000 in the lease to date. We note that in June 1981 Tesoro forwarded to the BLM for approval an assignment of the rights from Tesoro to Transcontinental Oil Corp. We note this because that assignment had been pending for about 10 months and that may be an extenuating circumstance in this case. Assignments are usually processed in much less time than that.

Because of these factors, we do not object to enactment of the bill, although we would suggest two minor technical amendments.

That concludes our comments on these bills, Mr. Chairman.

[The prepared statements of Mr. Russell follow:]

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 1877

I am pleased to appear today before this subcommittee to discuss S. 1877.

S. 1877 provides that oil and gas lease NM-12846 would be deemed not to have terminated on January 2, 1981. The lease would be extended for 2 years from October 19, 1981, the date the lessee received notice of expiration, and for so long as production continues. Accrued rental would be required from the last leaseholder of record within 30 days after receipt of notification from the Secretary of the amount owed.

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

The lease was issued effective January 1, 1971, for a period of 10 years and so long thereafter as oil or gas is produced in paying quantities. Drilling operations were being conducted on the expiration date of December 31, 1980, so that the lease did not expire. However, the rent for the 11th year was not paid on the January 2, 1981, due date so that the lease terminated by operation of law on that date. Rent was not paid until August 17, 1981.

Unaware of the fact that the lease had terminated, the lessee reached the proposed depth in September 1981, at which time the Geological Survey notified the Bureau of Land Management that the operations were diligent and that Gulf was entitled to a 2-year extension. The 2-year extension was granted on October 7, 1981. However, it was subsequently determined that the lease had terminated on January 2, 1981, because of the failure by Gulf to pay rent for the 11th year of the lease. Gulf was notified of this by decision of October 15, 1981. Gulf appealed this decision. On April 23, 1982, the Board of Land Appeals affirmed the termination. Gulf has estimated that the well has an initial potential of 1,050,000 cubic feet of gas per day. On February 8, 1982, the Department of the Interior entered into an agreement with Gulf to permit continued operation of the well, pending enactment of legislation. Receipts less operating costs are held in escrow.

Gulf's actions in this matter indicate a diligent pursuit of expeditious development of the lease. Reinstatement of the lase would be in the national interest.

We recommend that the bill be modified by deleting on page 2, line 4 the words "and all other terms of the lease are met." If the lease is extended only so long as all other terms of the lease are met, then a technical breach of the lease would terminate the lease as surely as unapproved cessation of production. This would preclude application of the normal cancellation procedures and the possibility of waiver by the Department of nonstatutory breaches of the lease.

This concludes my statement. I will be happy to respond to questions.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 1908

I am pleased to appear here this morning to discuss S. 1908.

S. 1908 would reinstate and validate oil and gas lease NM-A26947 (Oklahoma) and would extend the lease for a period equal to the unexpired portion of the lease remaining on January 1, 1981, and so long thereafter as oil and gas is produced in paying quantities.

Within 30 days of enactment of the bill, the Secretary would be required to inform the last recordholder of the lease how much unpaid rental had accrued to the United States under the lease. Such accrued rental would have to be paid by the recordholder within 30 days of receipt of the notice.

We would have no objection to enactment of the bill, if the Congress finds that the lessee warrants special relief.

The lease in question was issued competitively to Monsanto Corporation for a 5-year period effective January 1, 1976. Monsanto paid a bonus of $32,019.20 for the Government's 50 percent interest in the mineral rights of the involved land. The remaining 50 percent is privately owned. The lease was communitized under a communitization agreement approved December 11, 1980. A well was completed on the private portion of the unit. Production was obtained in May 1981. Production for the first month was metered at 85,799 mcf per day.

Since drilling occurred prior to the expiration date of the lease, the lease was eligible for an extension for 2 years and so long thereafter as oil or gas is produced in paying quantities. However, payment for the sixth year's rent was required. That payment was not made, and the lease was held to have terminated by operation of law on January 1, 1981.

We have been advised that the operator under the communitization agreement stopped production when an accident caused the well to be shut down, and that the well will have to be redrilled. Prior to the end of production, the operator accrued at least $500,000 from the well. However no royalties have been paid to the United

States. The $500,000 is currently being held in escrow. The Minerals Management Service of the Department of the Interior has estimated that the royalty due the United States under the lease is about $62,000. However, if the lease is not reinstated the United States should receive all funds achieved from production of the Federal estate which accrued after December 31, 1980, the date the lease terminated, because the well was being operated without authorization.

The early communitization of the lease and the diligent operation of the well demonstrate the good faith of both Monsanto and the operator of the lease. Reinstatement of the lease would allow the operator to redrill the well and continue production.

We believe that, if the lease is reinstated, the reinstatement should be conditioned on the payment to the United States of all royalties presently owed the Government for production which occurred on the lease unit. We would also recommend that the bill be amended to allow the lease to be extended for so long as oil or gas is achieved in paying quantities, rather than oil and gas.

This concludes my statement. I will be happy to respond to your questions.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 1909

I am pleased to appear here this morning to discuss S. 1909.

Under S. 1909, oil and gas lease W-24153 would be held not to have terminated by operation of law and would be deemed to have been communitized with another oil and gas lease on May 31, 1980. The lease would continue in full force and effect so long as oil or gas is produced in paying quantities from the lease unit. Within 60 days of enactment of S. 1909, the last recordholders of leases W-24153 and W-47820 (the other lease in the unit), would be required to file a communitization agreement with the Secretary who would be required to approve it retroactively to a date prior to May 31, 1980. Within 30 days of enactment of the bill, the Secretary would be required to notify the recordholder of lease W-24153, in writing, of the amount of any rental accrued to the United States under that lease and unpaid by the last recordholder. The recordholder of the lease would be required to tender payment of the accrued rental within 30 days of reciept of the notice.

We would not object to enactment of this bill.

Lease W-24153, a noncompetitive oil and gas lease, was issued for a ten-year term effective June 1, 1970, to Devon and Eason Oil Companies, with each company being assigned a 50 percent working interest in the lease. The lease covered the east one-half of section 26, township 20 north, Range 12 west, Sixth Principal Meridian. A lease of the west one-half of section 26 had been issued to Tenneco.

Devon was unable to obtain a permit to drill from the State of Wyoming because of a State spacing order that allowed only one well in the southwest quarter of a 640-acre spacing unit. Devon was not able to obtain an exception to the order. Devon also applied for a forced pooling order because Tenneco had declined to participate in the cost and expense of a test well. However, that application and the application for an exception to the spacing order were withdrawn in September 1979, when Tenneco agreed to participate in a test well.

Devon, Eason and Tenneco entered into a communitization agreement, dated October 18, 1979, covering all of section 26. Through an administrative oversight, the agreement was not filed with Geological Survey, as is required by regulation. Devon did apply to Geological Survey for permission to drill a well in the southwest quarter of section 26, a portion of Tenneco's leasehold. The application was approved on December 6, 1979.

The well was spudded on January 5, 1980, and was completed on July 20, 1980, as a gas well. The well is currently shut in awaiting pipeline construction.

Devon submitted rental checks to the Bureau of Land Management on May 1 and May 20, 1980. The Wyoming State Office refunded the payments and eventually held that lease W-24153 had expired on May 31, 1980, because there had been no drilling on the leasehold that would make it eligible for extension and because it was not part of an approved communitization agreement. An appeal was filed with the Interior Board of Land Appeals, which affirmed the Wyoming State Office's decision on August 25, 1981.

We have no objection to reinstatement of lease W-24153. Devon demonstrated an early and sincere effort to develop its leasehold. Although its initial intent to develop was delayed by Wyoming's spacing order, Devon persisted in its development efforts and succeeded in developing a producing well in cooperation with Tenneco. Although the operating agreement was not approved by Geological Survey, that fail-

ure appears to have been the result of an administrative error. We do not believe that an administrative oversight of this nature should be allowed to halt a clearly demonstrated intention to proceed with oil and gas production.

That concludes my statement. I will be happy to answer your questions on this bill.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 1941

I am pleased to appear today before this subcommittee to discuss S. 1941.

S. 1941 would reinstate and validate oil and gas leases numbered NM 25447 and NM 25452 of the Hixon Development Company covering 599.15 acres in San Juan County, New Mexico. The terms of the leases would be extended for 2 years from the date on which the lessee received notice that the leases expired for nonpayment of rent, and so long thereafter as oil and gas is produced in paying quantities.

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

The oil and gas leases referred to in S. 1941 were competitive leases that became effective on July 1, 1975, for a period of 5 years and so long thereafter as oil or gas is produced in paying quantities. On August 4, 1980 the U.S. Geological Survey notified the New Mexico State Office of the Bureau of Land Management that both leases qualified for a 2-year extension inasmuch as there was diligent drilling prior to the expiration date of June 30, 1980.

No extensions were granted because the lessee, Hixon Development Company, failed to pay the rental due on July 1, 1980. The lessee was notified of that on August 15, 1980. However, Hixon had been diligently drilling at considerable expense prior to the lease expiration date and had duly notified the Geologiacal Survey of that fact. Hixon was acting in a manner that was customary for similar operations on State or private leases in the area.

Because of Hixon's past activities on the lease, if this bill is enacted, it may provide a greater incentive to obtain drilling on the lease than might be the case if the tract were offered again and were given to another lessee under a new 5-year lease.

We suggest a technical amendment. On page 2, line 4, the words "oil and gas" should be changed to "oil or gas". Also, on line 3, page 2, the word "expired" should be changed to "terminated".

This concludes my statement. I will be happy to respond to questions.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 2095

I am pleased to appear here today to discuss S. 2095.

S. 2095 would direct the Secretary of the Interior to issue an oil and gas lease covering Parcel 19, Eddy County, New Mexico, to the Ballard E. Spencer Trust Company. The bill requires the lease be issued within 120 days following application by the Spencer Trust. Parcel 19 was one of 35 parcels in the State of New Mexico, for which the Bureau of Land Management, on February 19, 1974, published a notice of lands available for oil and gas filings in accordance with the noncompetitive leasing provisions of the Mineral Leasing Act. S. 2095 would require that Parcel 19 be leased in the same manner as if the entry card covering the parcel which was filed by the Corporation had contained all the information required by law and applicable regulations.

We are opposed to enactment of S. 2095.

The Spencer Trust, as a participant in the simultaneous oil and gas program, was given first priority in a drawing held in February 1974, in New Mexico. Because the Corporation failed to adequately comply with regulations covering qualification statements, the application was rejected. A protest filed with the Bureau of Land Management's New Mexico State Office was dismissed.

The Corporation then filed an appeal with the Interior Board of Land Appeals, which upheld the State Office decision. Finally, after exhausting its administrative remedies, the Corporation appealed to the U.S. District Court for the District of New Mexico and then to the U.S. Court of Appeals for the 10th Circuit. The courts upheld the rejection of the application and stated that the Secretary was acting within his discretion, and that his decision was not arbitrary or capricious.

After it was established that the Spencer Trust Corporation had unsuccessfully pursued all available administrative and judicial remedies, a lease covering Parcel 19 was issued to the second priority participant on June 1, 1977.

None of the administrative or judicial reviewers found any basis for granting relief to the Corporation. We do not know of any equities which would justify cancellation of the current lease on Parcel 19 and issuance of a lease to the Spencer Trust Corporation. Such an action would be patently unfair to the current leaseholder.

This concludes my statement. I will be happy to respond to questions.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 2146

I am pleased to appear here this morning to discuss S. 2146.

S. 2146 would direct the Secretary of the Interior to extend the term of four oil and gas leases, which comprise the "Toledo Unit" within the Bridger-Teton National Forest in Lincoln County, Wyoming. The leases are due to expire 48 days after termination of the current Bureau of Land Management suspension of lease terms and rental payments. S. 2146 would provide for an extension for 2 years from either the date of its enactment or the termination of the BLM suspension and for so long thereafter as oil and gas is produced in paying quantities.

We would have no objection to enactment of the bill if it is amended to meet our concerns.

Each of the leases identified in the bill would normally have expired on November 17, 1980 unless as well on the unit was capable of producing in paying quantities.

On October 22, 1980, an acceptable application to drill was submitted to the United States Geological Survey. However, the U.S. Forest Service, the surface management agency, stated that the public scoping process, field review and preparation of an environmental analysis would require, at a minimum, more that 2 months under optimum conditions. On November 3, 1980, the Forest Service also advised that, given the remoteness and high altitude of the location and the onset of winter, it would be unable to perform the necessary field work before the summer of 1981. More recently, the Forest Service advised the Bureau of Land Management that the work was not accomplished because it was known that the four leases were due to expire.

As a result of the information received from the Forest Service in November 1980, the Bureau of Land Management, on March 24, 1981, granted a suspension of lease terms and rental payments for the four leases. At the time the suspension was granted, each lease had 48 days left in the term. Therefore, when the suspension is terminated, 48 days will be left on the lease before it expires.

If a drilling permit is issued and drilling operations are commenced, the lessees will have only 48 days within which to have a well capable of producing in paying quantities.

We believe that 48 days may be too short a time to accomplish what is to be done if the leases are to be continued by virtue of production. Therefore, we would have no objection to enactment of this bill provided that it is amended to condition any extension of the leases on the granting of a permit to drill, and to authorize the Secretary of the Interior to insert additional restrictive stipulations in the lease.

We have been advised by the Forest Service that recent forest land management planning efforts have resulted in a determination that some areas within the leases included in the Toledo Unit should not be occupied for oil and gas activities because of the impact that surface disturbance could have on certain environmentally sensitive areas.

Since the Forest Service has not suggested that oil and gas activity should not continue but merely be controlled where necessary, we recommend that the bill be amended to authorize the Secretary of the Interior, at the request of the Secretary of Agriculture, to modify the lease stipulations to insure the protection of environmentally sensitive areas.

Finally, we note three technical amendments that are required: lease "W62250" should be "W66250"; the phrase "oil or gas" in line 4, page 1, should be "oil and gas"; and the phrase "oil and gas" in line 4, page 2, should be "oil or gas."

That concludes my statement, I will be happy to answer any questions on the bill.

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, ON S. 2481

I am pleased to appear before the subcommittee this morning to discuss S. 2481.

S. 2481 would reinstate United States oil and gas lease W61985 as of February 1, 1982, and extend the term of the lease for 1 year from date on which the lessee received notice of the expiration of the lease and so long thereafter as the lessee pays the annual rental or as oil and gas is produced in paying quantities. Within 30 days of the date of enactment of S. 2481, the Secretary would be required to notify the last recordholder of the lease of the amount of the unpaid rental accrued to the United States under the lease. The recordholder would be required to tender payment within 30 days of receipt of the notice.

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

Lease W-61985 comprises 440 acres of land in Campbell County, Wyoming. After a simultaneous oil and gas lease drawing, the lease was issued to Jeanne H. Ketchpaw and Robert A. Riley, for a 10-year period effective February 1, 1978. At the time the lease was issued, the involved area had not been designated a Known Geologic Structure (KGS). As a result, the original rent was only $1 per acre, or $440 total.

In January 1978, Tesoro Petroleum Corporation purchased the rights to the lease. On August 11, 1981, the Wyoming State Office of the Bureau of Land Management notified Tesoro that the lease had been designated as falling within a KGS, and that the rent would be $2 per acre, or $880 total. Evidently, that notice was misfiled by Tesoro. On December 17, 1981, Tesoro forwarded to the Bureau of Land Management a check for $440, as payment for the annual rental due on February 1, 1982. On January 11, 1982, Tesoro received a courtesy billing regarding the $880 rent. From information prepared by Tesoro it appears that the courtesy billing was also misfiled.

On March 4, 1982, the Wyoming State Office of the Bureau of Land Management notified Tesoro that the lease had automatically terminated by operation of law on January 31, 1982, for failure to pay rent. On march 8, 1982, Tesoro tendered payment of the additional $440, and filed a notice of appeal requesting reinstatement of the lease. The Bureau of Land Management Wyoming State Office did not consider the request to reinstate because the rent had not been received within 20 days of the due date and the Bureau lacked authority to reinstate. However, it submitted the appeal decision to the Interior Board of Land Appeals, which has not yet rendered a decision.

Tesoro has asserted that it has invested $60,000 in the lease. As far as we know there has been no drilling on the lease.

We note that in June 1981, Tesoro forwarded to the Bureau of Land Management Wyoming State Office, for approval, an assignment of rights from Tesoro to Transcontinental Oil Corporation. The Wyoming State Office had not acted on the assignment by March 1982 when it notified Tesoro that the lease had terminated. We do not know why there was a delay in the processing of the application. It may have been that the assignment was forwarded to the Wyoming State Office during a period when the Bureau of Land Management was investigating filings and outstanding leases under the simultaneous oil and gas leasing system. The investigation may have contributed to the Bureau's delay in processing the assignment. We do not know what, if any, bearing this may have had on Tesoro's failure to pay the entire amount of rent due. We call it to your attention as a point of interest.

We suggest two technical amendments to the bill. S. 2481 would extend the lease for 1 year from the date the lessee received notice of the lease expiration, and "so long thereafter as said lessee shall pay the annual rental or as oil and gas is produced in paying quantities." We recommend that the phrase "thereafter as said lessee shall pay the annual rental or" be deleted because it duplicates a lease provision. In addition, the phrase "oil and gas" should be changed to "oil or gas."

Senator WARNER. I wonder if you might remain at the witness table as we go through these amendments one by one, very carefully.

Mr. RUSSELL. Yes, sir.

Senator WARNER. I have to be at the White House, to leave here shortly, for a budget meeting at the White House at 10:15. I think we can accommodate everybody. Now, if you could help me and if there is a problem we will just have to wait until I get back from the White House. We have to get to the budget problems.

Mr. Douglas Henry, vice president for production, Gulf Oil Exploration.

STATEMENT OF DOUGLAS L. HENRY, VICE PRESIDENT FOR PRODUCTION, GULF OIL EXPLORATION AND PRODUCTION CO., U.S.A.

Senator WARNER. Mr. Henry, do you have a statement?

Mr. HENRY. Yes, I do.

Senator WARNER. As I understand it there is no one here to contest this lease. Is that correct? It is a nontechnical situation. We accept your statement. Is there anything further you wish to add?

Mr. HENRY. No, sir.

Senator WARNER. Is Mr. Russell in agreement with all of this?

Mr. RUSSELL. We have one technical amendment on page 2, line 4 of the bill, that would delete the words "and all other terms of the lease are met." Our Solicitor's office advises us that that could cause some unintended problems and it does not change the intent or the outcome of the bill.

Senator WARNER. What is your position on that proposal?

Mr. HENRY. It is acceptable to us.

Senator WARNER. Do you accept the technical amendment?

Mr. HENRY. Yes.

Senator WARNER. Is there anything further on this lease?

Mr. RUSSELL. No, sir.

Senator WARNER. Thank you, Mr. Henry.

[The prepared statement of Mr. Henry follows:]

STATEMENT OF

DOUGLAS L. HENRY

VICE PRESIDENT, GULF OIL EXPLORATION AND

PRODUCTION COMPANY - U.S.

BEFORE THE

SUBCOMMITTEE ON ENERGY & MINERAL RESOURCES

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES,

UNITED STATES SENATE

WASHINGTON, D.C.

MAY 7, 1982

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Mr. Chairman, I appreciate the opportunity to appear before you and the members of the subcommittee this morning to seek your support for S. 1877, introduced by Senators Domenici and Schmitt of New Mexico.

S. 1877 would provide for reinstatement of a federal oil and gas lease which expired by operation of law because the rental payment was not timely submitted.

I intend to be brief in my presentation this morning and request that you keep in mind the three principal points which I believe are most important in your consideration of this legisation.

These three are:

1. Gulf began to take action to develop the lease well in advance of the expiration of the primary term and more than 2 million dollars has been expended in drilling and development costs.

2. Gulf failed to make timely payment of the lease rental because of a clerical inadvertence and tendered the rental immediately upon discovery of the error.

3. Gulf has instituted a new system to prevent this error from occurring in the future.

Let me briefly review the background of this problem.

Gulf acquired Federal Oil & Gas Lease #NM12846 on August 7, 1972. This lease, like a number of other federal leases in New Mexico was purchased for its location in a relatively inactive "trend" area as distinguished from an active "block" area. That is to say (1) not a great deal of drilling had been done in the area and consequently there was little specific geological or geophysical data available, and (2) leases available for purchase are not in such abundance that an exclusive "block" can be easily or rapidly acquired. Consequently, a reasonably large acreage position must be put together with other lessees to support the large amount of money necessary to obtain detailed data and the expense of drilling a wildcat well. On the lease in question the well cost more than 2 million dollars.

Much of the land ownership in this New Mexico exploration trend area is characteristically divided into small tracts and the ownership of oil and gas leases is frequently divided among many companies and individuals. This situation makes it necessary to join these parties together into a working interest unit pursuant to which each party will share proportionately in the drilling and operating costs. Obtaining the necessary consensus from all these parties including agreement on time of drilling, shape of unit, site of well, etc., is difficult and time consuming. In the case of the Quail Unit which includes the lease in question, it took nearly a year. That is to say action was begun to develop Lease #NM12846 almost a full year prior to the expiration of the primary term. Gulf did not simply ignore or neglect this lease until its term ran out. A great deal of effort had been expended towards development.

The actual well was finally spudded on December 12, 1980 and completed at a depth of 15,200 feet and found to be a gas producer. It was shut in until a contract was signed between the Department of Interior and Gulf on January 21, 1982, and is presently producing at no profit to Gulf pending your consideration of this legislation.

I am certain you gentlemen are aware that over the past few years oil and gas drilling has accelerated at an unprecedented rate. As a result, experienced personnel in all branches of our industry have been in great demand and there has been a correspondingly high influx of untrained personnel, particularly in the larger companies, simply trying to keep abreast of this accelerated activity. Gulf's Midland, Texas office having responsibility for this lease is no exception. Some resulting confusion has been inevitable and this was one of the principal reasons why a clerical error occurred and the rental payment on this lease was not made in a timely manner. Rental payments are normally made by our computer system, but after the primary term, a manual adjustment must be made. In this case that was not done. Consequently, the subject lease, which was granted an extended primary term due to the commencement of drilling became subject to manual, rather than automatic, rental processing and one of the clerks in the lease records section neglected to make payment. As soon as the failure to pay was discovered, payment was made. The Bureau of Land Management characteristically sends out to its lessees notices of rental payments due during each of the 10 years of the stated primary term, but does not give any such notice of an eleventh or subsequent year's rental. Had we received such a reminder, the rental would most certainly have been timely paid, although we by no means imply that the blame should be placed outside Gulf.

Shortly following the late payment incident Gulf conducted an internal audit to determine our deficiencies. As a result, a new system has been developed which insures correlation of lease status information among the involved land and records units. New forms have been developed and verification procedures have been instituted. Gulf is doing its best to assure that this misfortune does not occur again.

We believe strong equitable reasons exist for reinstatement. The late paid rental amount was only 400 dollars. A small sum compared to the drilling costs of $2,455,266 and the substantial costs involved in establishing the unit. Development began nearly a year before the end of the primary term and the failure to comply with the law on timing of rental payment was a mere clerical inadvertence. We believe there is ample precedent for reinstating this lease based on these facts. I, therefore respectfully request favorable action on S. 1877.

Thank you for your time and your consideration. If you have any questions I will be pleased to answer them.

Senator WARNER. Mr. Harrison Townes appearing on S. 1980.

STATEMENT OF HARRISON L. TOWNES, PRESIDENT, TOKLAN OIL CORP.

Senator WARNER. Is there anyone here appearing in opposition to this lease? No one. Thank you, Mr. Townes. We will accept your statement in full. There are nontechnical amendments as well as the technical amendments.

Mr. TOWNES. Yes, sir.

Senator WARNER. Do you wish to make any opening statement or proceed?

Mr. TOWNES. No, sir, just proceed.

Senator WARNER. Mr. Russell.

Mr. RUSSELL. Our one amendment suggested that reinstatement be conditioned on payment to the United States of all royalties plus interest approved presently owed the Government for production which occurred on the lease unit. The royalties due the United States are calculated by the Minerals Management Service as $62,765. That is assuming that the lease is reinstated.

Mr. TOWNES. I might say that none of that money is in our hands. It is in escrow. I cannot pay the Government or anybody else, because I have no income from the well. I have never received any income.

Senator WARNER. Is there a problem here, Mr. Russell?

Mr. RUSSELL. The funds are not in escrow, so they are not accessible by the Government at this time. That is my understanding. They are being held in suspension.

Mr. ZIMMERMAN. Nova Energy Co., which is one of the working interest owners is holding the $500,000. I believe that is right, Mr. Townes.

Mr. TOWNES. Yes, sir. Mr. Warner, the pipeline company that paid this money paid one of the working unit owners in the well the share due me and the Government for all of it. Because of the problem here that owner will not release those funds to anyone until this problem is settled.

Senator WARNER. Mr. Russell.

Mr. RUSSELL. If the lease is reinstated we don't have a problem.

Mr. TOWNES. That is right.

Senator WARNER. If we act favorably on this lease?

Mr. RUSSELL. Yes, sir. The question is academic, because if the lease is reinstated the Government will be refunded.

Senator WARNER. Do you have any further statement at this time?

Mr. TOWNES. No, sir.

Mr. RUSSELL. We have one additional technical amendment. The bill reads now "oil and gas." It should read "oil or gas" one or the other.

Senator WARNER. Is that acceptable?

Mr. TOWNES. Yes, sir.

Senator WARNER. Is there any further comment? Thank you.

Mr. TOWNES. Thank you.

[The prepared statement of Mr. Townes follows:]

STATEMENT OF TOKLAN OIL CORPORATION
RESPECTING S.1908

S.1908 provides for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma) (the "Lease"). The Lease terminated by operation of law on January 1, 1981.

The factual situation and applicable law surrounding the termination of the Lease are somewhat complex. A more comprehensive discussion of these matters is contained in a Memorandum, dated September 17, 1981, which is attached as Exhibit "A".

Briefly, the Lease was issued to the Monsanto Company effective January 1, 1976, and covering 160 net acres within Section 10-13N-25W, Roger Mills County, Oklahoma. The primary term of the Lease was for a period of five years. On August 25, 1980, Monsanto entered into a Farmout Agreement with Harrison L. Townes, Inc., predecessor to Toklan Oil Corporation. (Mr. Townes is President and majority shareholder of Toklan, a small Oklahoma independent oil and gas producer.) The terms of the Farmout Agreement specified, in part, that Monsanto was to pay delay rentals to keep the Lease in force. Monsanto paid delay rentals of $2.00 per acre for Lease years 1977 through 1980.

On October 1, 1980, a Communitization Agreement became effective for all of Section 10-13N-25W as to natural gas produceable from the Douglas, Tonkowa, Cottage Grove, Cleveland, Marmaton, Upper and Lower Cherokee, Atoka and Upper Morrow formations. This Agreement was approved by the U.S. Geological Survey, Tulsa District on December 11, 1980.

On October 27, 1980, the operator, Ports of Call Oil Company, commenced drilling operations in the SW/4 of Section 10-13N-25W, the well being designated as the Clift No. 10-1. Drilling was completed on January 27, 1981 and the Clift No. 10-1 began producing on February 22, 1981. In May, 1981, the well was hooked up by the purchaser and put on line.

Monsanto was informed by the Bureau of Land Management by telephone on July 23, 1981 that the Lease had terminated by operation of law for failure to pay the $320 delay rental for the sixth Lease year due December 31, 1980. As discussed in the Memorandum set forth at Exhibit "A", the only viable means for reinstatement of the Lease appears to be through private relief legislation.

The above briefly describes the factual circumstances existing at the time S.1908 was introduced. Additionally, a number of meetings have been held with representatives of the Department of

Interior and by letter of October 19, 1982 to Secretary James G. Watt, Toklan formally submitted a proposed "Escrow Agreement with Ratification of Operating Agreement" for review and approval. The proposed Escrow Agreement would provide for the establishment of an escrow account to continue until reinstatement of the Lease is enacted or rejected by Congress. We understand the Escrow Agreement to be similar to a number of agreements previously entered into by the United States.

Subsequent to the introduction of S.1908 several events have unfortunately occurred which impact upon the above situation. In February, 1982, Ports of Call, operator of the Clift No. 10-1, advised the various working interest owners that the well had ceased to produce. After review, the well was shut-in and does not appear capable of further production.

The present inequity addressed by S.1908 involves merely the recovery by Toklan, and the parties holding under it, of amounts actually expended in the drilling and completion of the Clift No. 10-1. The expenses applicable to the interest represented by the Lease for the drilling and completion of the Clift No. 10-1 were approximately $1,018,600. Toklan is advised that the revenues applicable to the Lease during the productive life of the Clift No. 10-1 total the sum of $498,765.94, including royalties due the United States of $62,765.94. Toklan seeks only recovery to extent funds are available from the proceeds of sale and salvage, less all royalties, of the actual costs incurred in the drilling and completion of the Clift NO. 10-1.

Respectfully submitted,

TOKLAN OIL CORPORATION

Harrison L. Townes, President

May 7, 1982

MEMORANDUM

September 17, 1981

Reference: Harrison L. Townes, Inc.
U.S. Lease NM-A26947 (Okla.) Township 13 North,
Range 25 West, I.M., Section 10: E/2 160 net acres, Roger Mills County, Oklahoma
#35-129-003;
Automatic Termination and Reinstatement.

This Memorandum has been prepared on behalf of Harrison L. Townes, Inc., and is to set forth the circumstances surrounding the termination of the above Lease. The Memorandum attempts to outline the history of U.S. Lease NM-A26947 (Oklahoma) and applicable federal law.

UNITED STATES LEASE NM-A26947 (Oklahoma)

United States Lease NM-A26947 (Oklahoma) (the "Lease") was issued under the effective date of January 1, 1976, to the Monsanto Company, a Delaware corporation. The Lease, obtained as a result of competitive bidding, has a five year primary term beginning January 1, 1976.

On August 25, 1980, Monsanto Company entered into a Farmout Agreement with Harrison L. Townes, Inc., a small Oklahoma independent oil and gas producer. In accordance with the terms of the Farmout Agreement, Monsanto agreed to execute and deliver to Harrison L. Townes, Inc., an assignment of 75% of all its right, title and interest in and to the Lease, limited in depth to 50 feet below the total depth drilled and logged on a test well. Monsanto reserved an overriding royalty interest of 12.5% with the option to convert the overriding royalty interest after payout to a 25% working interest in and to the test well. If Monsanto decided to exercise its option to convert the override to a 25% working interest, the parties to the Farmout Agreement (Monsanto and Harrison L. Townes, Inc.) were to enter into an operating agreement essentially in the same format as the Model Form Operating Agreement AAPL Form 610-1977. Prior to the effective date of the Operating Agreement, Monsanto was

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to pay delay rentals to keep the Lease in force. Under Schedule "B"-Competitive, attached to the Lease, delay of $2.00 per acre rentals were to be paid to the United States by Monsanto on or before the 1st day of the month in which the Lease issued and for each lease year thereafter, prior to a discovery of oil or gas on the leased lands. Delay rentals were paid by Monsanto on December 21, 1976, for Lease year 1977, on December 16, 1977, for Lease year 1978, on December 8, 1978, for Lease year 1979, and on December 17, 1979, for Lease year 1980.

On September 5, 1980, Harrison L. Townes, Inc., and others as non-operators, entered into an Operating Agreement AAPL Form 610 Model Form Operating Agreement-1956 with Ports-of-Call Oil Company, as operator, covering all of Section 10, Township 13 North, Range 25 West, Roger Mills County, Oklahoma, to drill the Clift #10-1 well. The non-operators are Nova Energy Corporation, El Paso Natural Gas Company, Palmer Investments, Hoover and Bracken Energies, Inc., Nicor Exploration Company, Patrick Petroleum Corporation, Monsanto Company, Eastern Energy Corporation, Plains Resources, Inc., Transwestern Gas Supply, and Pacific Lighting Gas Development Company. The Operating Agreement covered all of Section 10-13N-25W insofar and only insofar as said land covered from the surface of the ground down to the stratigraphic equivalent of a point 50 feet below the base of the Upper Morrow formation.

On October 1, 1980, a Communitization Agreement became effective for all of Section 10-13N-25W as to natural gas producible from the Douglas, Tonkowa, Cottage Grove, Cleveland, Marmaton, Upper and Lower Cherokee, Atoka, and Upper Morrow formation. This Agreement was approved by the US Geological Survey, Tulsa District, on December 11, 1980. The Agreement was entered into by and between Ports-of-Call Oil Company, as operator, and Monsanto Company, Transwestern Gas Supply Company, Pacific Lighting Gas Development Company and El Paso Natural Gas Company, as the lessees of the leases communitized in the Agreement. The Communitization Agreement provided for all of Section 10 to be developed and operated as a single unit, with the understanding and agreement between the parties that all communitized substances produced therefrom shall be allocated among the leaseholds comprising the area in the proportion that the acreage interest of each leasehold interest bears to the entire acreage interest committed to the Agreement. By virtue of this Agreement, Harrison L. Townes owns an undivided 25% interest in the communitized lands (Section 10-13N-25W) subject to the

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reversionary interest of Monsanto. The Agreement provided that the payments of delay rentals under the terms of the leases committed to the Communitization Agreement should not be affected by the Agreement except as provided for under the terms and provisions of the leases.

On October 27, 1980, Ports-of-Call Oil Company commenced drilling operations in a legal location, located in the SW/4 of Section 10-13N-25W, designated as Clift #10-1 well. The drilling was finished on January 27, 1981, and the Clift #10-1 well first began producing on February 22, 1981. The well was drilled to the Morrow formation with a total depth of 15,821 feet, with perforation and production from 15,678-15,682 feet. In May of 1981, the well went on-line and began producing gas.

On July 23, 1981, Monsanto was informed by telephone that federal lease NM-A26947 (Oklahoma) had terminated by operation of law for failure to pay the $320 delay rental for the 6th lease year as extended, which payment was due on December 31, 1980. On July 24, 1981, Monsanto contacted Harrison L. Townes regarding the BLM's placing the lease in a "dead file" status. Formal notice of termination was received by Monsanto Company from the Bureau of Land Management's Sante Fe, New Mexico office by Accounting Advice, dated July 22, 1981. To date, Monsanto has not made its tender of the past due $320 delay rental. Since Harrison L. Townes' interest in the Clift #10-1 well was derived from the Farmout Agreement with Monsanto, Townes' interest in the well was terminated due to the failure of Monsanto to pay delay rentals.

Effective September 1, 1981, Harrison L. Townes, Inc., merged into Toklan Oil Corporation ("Toklan"), an Oklahoma corporation. One of the effects of the merger was to change the name of Harrison L. Townes, Inc. to Toklan and Toklan became successor to the interests of Harrison L. Townes, Inc. The officers of Toklan were identical to those of Harrison L. Townes, Inc., on the effective date of the merger, and Harrison L. Townes continued as the President and Chief Executive Officer of Toklan.

A proposed Gas Purchase Agreement is pending between El Paso Natural Gas Company, as buyer, and Toklan and its partners, Nicor Exploration Company, Patrick Petroleum Corporation, Eastern Energy Corporation, and Plains Resources, Inc., as sellers.

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APPLICABLE FEDERAL LAW

In examining the applicable Federal law regarding competitive Oil and Gas Leases issued under the Mineral Leasing Act (30 USC §§ 181-241) and the failure to pay delay rentals thereon, one must begin with the premise that termination of such leases generally occurs by operation of law. This type of termination is considered automatic, i.e., perfected without the necessity of affirmative action on the part of the Secretary of the Interior or his delegate. The Law of Federal Oil and Gas Leases, The Rocky Mountain Mineral Law Foundation, § 23.3 Page 688.

Insofar as automatic termination is concerned, the single most important provision in the Act relating to rentals is 30 USC § 188. Section 188(b), in part, states as follows:

> Notwithstanding the provisions of this section, however, upon failure of the lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil and gas in paying quantities, the lease shall automatically terminate by operation of law. . . .

Under the Mineral Leasing Act, competitive leases with five year primary terms may be extended by actual drilling operations commenced prior to the expiration of the primary term. In regard to this extension, 30 USC § 226(e) states:

> (e) Competitive leases issued under this section shall be for a primary term of five years and non-competitive leases for a primary term of ten years. Each such lease shall continue so long after its primary term as oil and gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and were being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil and gas is produced in paying quantities.

However, under federal law the commencement and prosecution of actual drilling operations does not excuse the continued payment of rentals on or before the anniversary date of any lease in a rental paying status. The Law of Federal Oil and Gas Leases, § 22.6, Page 637.

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Construction of the foregoing statutes has been litigated as recent as 1977 in Oil Resources, Inc., 84 Interior Dec. 91. There, the applicant, Oil Resources, Inc., had a five year lease expiring in March, 1976. In April, 1976, the BLM informed appellant that it had qualified for the two year extension, but in May, 1976, the BLM notified appellant that the lease had automatically terminated for failure to pay delay rentals on or before the anniversary date. Appellant argued that its failure to pay delay rentals was not grounds for denying the extension, that there is no requirement to pay rentals in order to get an extension, that the Secretary of Interior has discretion to reinstate the lease. In response to this argument, the Interior Board of Land Appeals ruled that extension provisions do not take precedence over rental provisions, that Oil Resources was required to pay rentals for the year beginning April, 1976, and that its failure to do so resulted in automatic termination of the lease. 84 Interior Dec. at 96.

In the present circumstances, the Lease was entitled to the two year extension, pursuant to 30 USC § 226(e), since drilling operations were commenced on October 27, 1980, prior to the end of the primary term and were diligently prosecuted until completed in February of 1981. But for Monsanto's failure to pay rentals prior to the end of the primary term the lease would have been subsisting and valid for two additional years and so long thereafter as oil and gas was produced in paying quantities.

An additional issue respecting the Lease is whether the gas well, the Clift #10-1, was capable of producing in paying quantities so as to relieve Monsanto from the duty to pay delay rentals. There is no doubt that the well has been completed as a producer. Pursuant to 30 USC § 188, a lease on which there is a well capable of producing "oil or gas in paying quantities" is not subject to automatic termination for non-payment of delay rentals.

The Board of Land Appeals has held that a well must be physically capable of producing oil and gas in paying quantities on the rental due date for the exception to be applicable. In United Manufacturing Company et al, 64 Interior Dec. 106 (1958) appellant, contesting automatic termination of its leases, maintained that its leases were not subject to automatic termination because all were known to contain valuable deposits of oil and gas and that one lease had a well capable of producing oil and gas in paying quantities. The Board noted that automatic termination

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applies only to "any lease in which there is no well capable of producing oil and gas in paying quantities," and then addressed the meaning of "capable of producing." Interior Dec. at 112. Quoting from Steelco Drilling Corporation 64 Interior Dec. 215 (1957), the Board of Land Appeals concluded that:

> [A] well drilled through a potentially productive sand, but not tested or placed on production in such sand is not regarded as a well capable of producing oil and gas in paying quantities. . . . Neither the possibility that oil and gas might be produced from the well or the lease from a sand which has not been tested or produced nor the desirability of conducting further operations on the lease provide a basis for a determination. . . . that the well is, in fact, capable of producing oil and gas in paying quantities.

Language from HK Riddle, 62 Interior Dec. 81 (1955) was also referred to in the United opinion to dismiss any contention that drilling to discovery, sufficient to warrant inclusion of a tract within a known geologic structure of a producing field, would mean that a well was capable of production:

> The survey stated, in substance, that there was sufficient evidence of discovery of gas to warrant the inclusion of the N/2 of Section 4 within a known geologic structure of a producing field. This determination, however, was not intended and should not be interpreted to mean that a well had been completed to production, or was in a condition to produce, or was capable of production on that date. . . . (62 Interior Dec. at 113).

Thus, it is apparent that the Department has construed the phrase "well capable of producing" to mean a well which is actually in a condition to produce at the particular time in question. According to the United opinion, this is in accord with the literal meaning of the phrase and is, therefore, adopted as the proper meaning as used in the automatic termination provisions.

According to the daily drilling reports respecting the well drilled on the Lease (Clift #10-1), and the Oklahoma Corporation Commission Form 1002A, on day 47 (12-12-80) through day 67 (1-1-81), after the expiration of the primary term, the operator, Ports-of-Call Oil Company, was engaged in

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drilling operations until January 27, 1981, with the gas production test and shut-in not occurring until February 23, 1981. Under the authority cited, it may be concluded that the Clift #10-1 was not capable of production prior to expiration of the primary term.

Furthermore, it would appear that no relief may be had in connection with the Communitization Agreement, effective October 1, 1980. This Agreement fails to supercede any terms of the Lease with regard to the payment of delay rentals.

In accordance with the provisions of 30 USC § 226(j), the Secretary of the Interior is authorized, in his discretion, to establish, alter, change, or revoke drilling, producing, rental, minimum royalties, etc., in connection with the institution and operation of any unit or cooperative plan or communitization or drilling agreement when deemed to be in the public's interest. Language to this effect is contained in Subparagraph C of the USGS Approval-Certification-Determination of the Communitization Agreement:

> (c) Certify and determine that the drilling, producing, rental, minimum royalty and royalty requirements of the federal lease or leases committed to said agreement are hereby established, altered, changed or revoked to conform with the terms and conditions of the Agreement.

A close reading of the body of the Communitization Agreement reveals that terms and conditions relating to the payment of delay rentals or royalties are unaffected. Paragraph 6 provides as follows:

> The royalties payable on communitized substances allocated to the individual leases comprising the communitized area and the rentals provided for in said leases shall be determined and paid on the basis prescribed in each of the individual leases. Payments of rentals under the terms of leases subject to this agreement shall not be affected by this agreement except as provided for under the terms and provisions of said leases or as may herein be otherwise provided. Except as herein modified and changed, the oil and gas leases subject to this agreement shall remain in full force and effect as originally made and issued.

There are no modifications or changes with regard to the oil and gas leases subject to the Agreement, relating to the payment of rentals, within the remaining body of the agreement.

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Paragraph 10 of the agreement provides for its effective date, October 1, 1980, and that it shall remain in force and effect for a period of two years and for so long as communitized substances are, or can be produced from the communitized area in paying quantities. Paragraph 10 also provides that:

> The two year term of this agreement will not in itself serve to extend the term of any federal lease which would otherwise expire during said period.

The effect of this provision is to allow any other federal communitized leases to expire at the expiration of their respective primary terms, unless there is a producing well located within the communitized area. Again, there is the requirement of a well capable of production located somewhere within the 640 acre unit before the need to pay delay rentals is obviated. M-36629, 69 Interior Dec. 10, GFS SO-1962-288 (1962).

Without actual production in December, 1980, which would have served as constructive production as to every lease in the unit, the Lease automatically terminated on January 1, 1981, for failure to pay delay rentals.

The harsh application of the law with regard to automatic termination of federal leases, for non-payment or insufficient payment of delay rentals, prompted the enactment of special remedial legislation, whereby the Secretary of Interior was authorized, in certain cases, to reinstate leases which had automatically terminated for rental reasons. 76 stat. 943, 30 USC § 188(c) and (d). In 1962, Congress amended 30 USC § 188 (1954), which had required termination of a lease for failure to pay delay rental timely, by enacting general reinstatement provisions applicable only to leases which had terminated prior to the enactment of the amendments.

Oil Resources Inc., supra, construed 30 USC § 188(d) in reference to an application for reinstatement by an appellant/lessee who had commenced drilling operations prior to the expiration of the primary term, but had failed to pay the delay rentals on or before that date:

> [I]n those amendments, Congress also gave the Secretary special discretionary authority to reinstate an oil and gas lease on which "drilling operations were being diligently conducted on the last day of the

primary term, and, except for non-payment of rental, the lessee would have been entitled to extension of his lease, pursuant to Section 4(d) of the Act of September 2, 1960 (74 stat. 790)." Act of October 15, 1962, 76 stat. 943, 30 USC § 188(d) (1970). Since Section 4(d), now codified as 30 USC § 226-1(d) (1970), applies only to oil and gas leases issued before September 2, 1960, discretionary reinstatement under 30 USC § 188(d) applies only to leases issued before that date and, therefore, does not apply to appellants' lease, which was issued in 1971.

The Board of Land Appeals refused reinstatement of Oil Resources without a showing that it was entitled to reinstatement under 30 USC § 188(c), as amended May 12, 1970, 84 stat. 206. To qualify for reinstatement under 30 USC § 188(c) (1) and (2), the lessee must tender the delinquent delay rental within 20 days after the anniversary date, accompanied with a petition showing either that such failure was justifiable or not due to a lack of reasonable diligence on the part of the lessee; also, no valid lease must have been issued during the interim.

Unfortunately, the provisions of 30 USC § 188(c) and (d) are not alternatives for reinstatement of the Lease. The time period for petitioning under Section (c) has elapsed. Section (d), Discretionary Reinstatement, applies only to a lease acquired prior to September 2, 1960.

CONCLUSION

On January 1, 1981, Toklan, as successor to Harrison L. Townes, Inc., lost its right to receive an assignment of the Lease, pursuant to the Farmout Agreement with the Monsanto Company. The Lease automatically terminated when Monsanto failed to pay the delay rentals. The applicable federal law, although harsh, is clear and certain. If a federal oil and gas lease is in a rental paying status, rentals must be paid on or before the anniversary date of the lease. Toklan Oil Corporation, and its partners have been severely damaged in losing their interest in the subject well. Toklan is a small, independent oil and gas producing concern, whose economic security and potential for success has been adversely affected by such a loss. Based upon our research of the pertinent authority, the only viable means for reinstatement of the Lease and for Toklan to be made whole again is through private relief legislation.

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Senator WARNER. Marvin Lunde, S. 1909.

STATEMENT OF MARVIN LUNDE, GENERAL COUNSEL, DEVON ENERGY CORP.

Senator WARNER. We will accept your statement. Do you have anything further to say? I understand there are no amendments. Is that correct, Mr. Russell?

Mr. LUNDE. I have nothing further to say.

Mr. RUSSELL. We have no technical amendments.

Senator WARNER. No amendments. Do you have anything further to add beyond your statement?

Mr. LUNDE. No, sir, I don't.

Senator WARNER. Is there any opposition to this lease? There seems to be no opposition. No further testimony is required. Thank you very much.

Mr. LUNDE. Thank you.

[The prepared statement of Mr. Nichols follows:]

STATEMENT OF LARRY NICHOLS
PRESIDENT, DEVON ENERGY CORPORATION
ON S. 1909
TO REINSTATE U.S. OIL AND GAS LEASE NO. W-24153
before the
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
MAY 7, 1982

My name is Larry Nichols. I am the president of Devon Energy Corporation, whose headquarters are in Oklahoma City, Oklahoma. Devon is an independent oil and gas producing company. Devon and Eason Oil Company, also an independent oil and gas producing company, each hold a 50 percent interest in the oil and gas lease that is the subject of this bill.

On behalf of Devon and Eason, I want to express our gratitude to Senator Nickles and Senator Boren for sponsoring the bill and to the Chairman and members of the Committee for holding this hearing and affording us this opportunity to explain the measure and urge its enactment.

The purpose of the bill is to reinstate and validate U.S. on-shore oil and gas lease, serial number W-24153, covering the East half (E 1/2) of Section 26, T. 20 N., R. 112 W., 6th Principal Meridian, located in Sweetwater County, Wyoming, and to provide for the communitization of this lease with U.S. oil and gas lease, serial number W-47820, covering the West half (W 1/2) of the same section.

Lease W-24153, for a primary term of ten years, was issued on June 1, 1970. By assignments made in 1973, and duly

approved by the Department of the Interior, Devon and Eason Oil Company each acquired 50% interests in the lease.

On November 1, 1974, the United States issued oil and gas lease W-47820 covering the other or west half of section 26. This lease, containing royalty and other relevant provisions identical to those contained in W-24153, is owned by Tenneco Oil Company.

The applicable drilling and spacing regulations of the State of Wyoming prescribed the drilling of but one well on the section, to be located in the southwest quarter, on the lease owned by Tenneco.

In 1979, desiring to drill on or for the account of our lease covering the east half of the section, Devon and Eason solicited Tenneco to enter into a unit operating agreement to pool the leases and to provide for the drilling of a well on section 26 in accordance with the applicable spacing regulation.

When Tenneco indicated initially that it was not interested in this proposal, Devon and Eason applied to the Wyoming Oil and Gas Conservation Commission for an exception to the spacing order to permit us to drill a well on the east half of the section on our own lease. This application was opposed by Amoco Production Company (the holder of the other oil and gas interests in the vicinity but a stranger to section 26 and to the Devon-Eason and Tenneco leases thereon) on the ground that there was no geological or topographical necessity for the exception.

Devon and Eason then applied to the Wyoming Commission for an order requiring Tenneco to pool its lease with ours.

Subsequently, Tenneco having changed its position, Devon, Eason and Tenneco, on October 18, 1979, entered into a unit operating agreement covering the whole of section 26. Under this agreement, whereby the parties functionally pooled and unitized their leases and operations, Devon, as operator, undertook on behalf of the unit to drill a well in the southwest quarter of section 26, in accordance with the Wyoming spacing order, on the Tenneco lease.

A designation of Devon as operator and an application to drill the well were duly filed by Devon with the United States Geological Survey. The application was approved by the USGS on December 6, 1979.

Devon commenced drilling the well (designated Federal 1-26) on January 5, 1980 (approximately five months before May 31, 1980, the expiration of the primary term of lease W-24153), and diligently completed it as a gas well on July 20, 1980. After completion as a producer, the well was shut in for about eight months awaiting pipe line construction. It has been on stream as a producer since about the first of April 1981. Its rate of production is slightly in excess of 2 million cubic feet of gas per day. All of the gas underlying the whole of section 26 in the producing structure involved can be most efficiently and economically recovered from the well in the southwest quarter drilled by Devon on the Tenneco lease.

In May 1980, on the basis of the unitization of Devon-Eason lease W-24153 with Tenneco lease W-47820 and of Devon's diligent and successful drilling activities, as operator, on the latter, Devon and Eason submitted checks to the Bureau of Land Management in payment of the tenth year rental called for by their lease.

On November 24, 1980, Devon received a refund of this payment from BLM. Upon protesting, Devon discovered that, due to the neglect of an employee (who had been discharged in the meantime for other reasons), no formal communitization agreement had been filed joining the two leases covering section 26, notwithstanding that they had in fact been operationally unitized by the agreement entered into among Devon, Eason and Tenneco since October 18, 1979.

On December 11, 1980, the Wyoming State Office of the BLM dismissed Devon's protest, on the theory that the lease expired on May 31, 1980, for want of a formal communitization agreement, and, thus, for want of attributable drilling activity or production. On Devon's appeal to the Interior Board of Land Appeals, the decision of the state office was routinely affirmed. Devon's subsequent petition to the Secretary of the Interior for an exercise of supervisory jurisdiction was granted on November 17, 1981, to the extent of staying the effectiveness of the decision of the Interior Board of Land Appeals to permit the Secretary to review the matter, particularly in the context of

prospective revisions of the oil and gas leasing regulations which, we understand, the Secretary is considering.

Relative to the interests of the United States, the provisions of the two leases covering the section are the same and no third party interests have arisen or intervened since BLM held the Devon-Eason lease expired. Since the United States owns the whole section, royalties are not affected. There is no drainage of other tracts and no other vital interest of the United States is involved.

Devon took the initiative and the risk of exploring and developing the whole of the section. Devon's efforts have resulted in the production of an additional 2 million cubic feet of gas per day, which not only returns revenues in the form of royalties to the Treasury but augments the supply of this energy resource so vitally needed by the Nation.

By Devon's efforts in securing the operating agreement among Tenneco and Eason and itself, the Tenneco and Devon-Eason leases were unitized as of October 18, 1979, in every sense except the most technical and formal. There is no question that Devon acted in the best of faith at all times.

If the action of the BLM of declaring the Devon-Eason lease expired on strictly formal grounds is allowed to stand, and the lands are re-leased to someone else, either of two consequences, neither defensible, will surely follow.

1. The new lessee will secure permission to drill a well on the east half of section 26 and to produce such well

independently of the existing well on the west half drilled by Devon, as operator, on the Tenneco lease. This would clearly result in economic waste and could result in physical waste of the resource. Not only is a second well unnecessary to produce the gas underlying section 26, but such a well might actually reduce the total quantity of gas otherwise recoverable from the producing structure underlying the section.

This result would be bad conservation.

2. The east half of the section in the hands of the new lessee will be pooled or unitized with the west half of the section and production from the existing well on the west half attributed pro rata to the new leasehold on the east half. This is the situation that has existed in fact since Devon and Eason functionally unitized their lease, W-24153, with Tenneco's lease, W-47820, by entering into the operating agreement in October 1979. To permit a new lessee essentially to step into the shoes of Devon and Eason would produce nothing so much as a windfall to either the government, the new lessee, or both.

This result would be bad equity.

Both conservation and equity will be served by enactment of this bill, which reinstates and validates lease W-24153 by deeming it to have been communitized - in accordance with the actuality - with Tenneco's adjacent lease W-47820, within its primary term and now to be maintained by the production secured by Devon, as operator, on the Tenneco lease.

The bill provides for reinstatement and validation of lease number W-24153, by deeming it to have been duly communitized with lease number W-47820 at the expiration of its primary term (on or about May 31, 1980), and for its continuance otherwise in accordance with its terms as so communitized. The bill requires the holders of the unitized leases, within sixty days after its enactment, to submit a formal communitization agreement and provides for bridging the gap between May 31, 1980, and the date of its enactment by requiring the holders of the reinstated lease, after notice, to pay the amount of any rent (e.g., delay or shut in rent) that would have accrued during this period had the lease been recognized as in full force and effect throughout the same.

Enactment of the bill will not require any federal expenditures and will have no impact on the federal budget.

I respectfully submit that the relief this bill would accord is warranted in the interests of both conservation and equity and urge its enactment.

Again, on behalf of Devon and Eason, I want to thank the Chairman and members of the Committee for your consideration of S. 1909 and for affording us this opportunity to be heard in its support. Thank you.

Senator WARNER. Ms. Barbara Benavides, appearing on S. 1941.

STATEMENT OF BARBARA B. BENAVIDES, ASSISTANT SECRETARY AND TREASURER, HIXON DEVELOPMENT CO.

Senator WARNER. Is anyone appearing in opposition to this lease? There is no indication of objection. We will accept your statement in full. Mr. Russell, there appears to be a technical amendment.

Mr. RUSSELL. Two technical amendments. Again, oil and gas should be oil or gas.

Senator WARNER. Take them one at a time. Does the witness have any comment on that?

Ms. BENAVIDES. If we took oil, it would be on both leases or could we take oil from one and gas from one?

Mr. RUSSELL. That allows you to take oil from one and gas from one. As written you would have to take oil and gas from both.

Ms. BENAVIDES. That would be fine. We don't have any objection.

Senator WARNER. You accept that?

Ms. BENAVIDES. Yes.

Senator WARNER. What is the second technical amendment?

Mr. RUSSELL. The second amendment would change the word "expire" to "terminate."

Senator WARNER. Is that agreeable?

Ms. BENAVIDES. Yes.

Senator WARNER. We accept your statement. Do you have anything further to add?

Ms. BENAVIDES. Yes, we would like to make the request, the bill calls for a 2-year extension from the date on which Hixon Development Co. received notice of termination. We would request that that be amended to give us 120 days' notice, a 120 days from the date we received notice or enactment of this bill, so that we would not run out of time.

The termination notice was received in August 1980 and if we were not notified of the enactment of this bill until late in July, we would not have time to get a rig and complete the work necessary under the bill.

Senator WARNER. Do you have a position on that?

Mr. RUSSELL. That is a good point, Mr. Chairman. We would agree with that.

Senator WARNER. You would agree to the petitioner's request to amend the bill?

Mr. RUSSELL. That is correct.

Senator WARNER. The bill is amended.

Ms. BENAVIDES. Thank you.

[The prepared statement of Ms. Benavides follows:]

STATEMENT BY HIXON DEVELOPMENT COMPANY
BEFORE THE SENATE SUBCOMMITTEE
ON ENERGY & MINERAL RESOURCES
MAY 7, 1982

My name is Barbara B. Benavides. I am the Assistant Secretary and Treasurer of Hixon Development Company.

Mr. Chairman, first I wish to thank you and the members of the subcommittee on behalf of Hixon Development Company for allowing me this opportunity to appear here this morning to urge your support of S. 1941, introduced by Senator John Tower. A companion bill, H.R. 5033, has been introduced by Congressman Tom Loeffler.

The bill seeks congressional reinstatement of two Federal oil and gas leases, which expired because of the failure to pay the required delay rentals in a timely manner.

Hixon Development Company acquired leases NM 25447 and NM 25452 on July 1, 1975, through a competitive bid process. Both leases are located in San Juan County, New Mexico.

Drilling on both leases began prior to the end of the primary term of both leases, and was diligently pursued thereafter. Since the date of lease acquisition, two wells were drilled on lease NM 25447. The Federal 19-1 well was drilled and plugged in April 1980. The Federal 19-4 well was being tested and awaited a completion rig when we received notice

from the Bureau of Land Management, dated August 15, 1980, informing us that the lease was terminated for failure to pay rentals on time. The Federal 29-4 well was drilled on lease NM 25452. This well attempted to establish shallow gas production, but was plugged and abandoned. At the time the notice was received we were in the process of selecting a site for the drilling of a Gallup well.

Contrary to private and state lease provisions, drilling over the end of the primary term of a Federal lease does not extend the term to the end of the drilling period unless a sixth-year advance delay rental is paid. Due to clerical oversight the $640.00 rental on NM 25447 and the $560.00 rental on NM 25452 was not paid. Each year since acquisition of the leases, a notice of rental due was received on each lease from the Bureau of Land Management, but none was received for the year in question.

Logs on the Federal 19-4 well show indications of probable gas production and our engineer's estimates of recoverable reserves for the lease NM 25447 are 72,200 barrels of oil and 150,600 mcf of natural gas. He estimates the recoverable reserves on lease NM 25452 to be 63,200 barrels of oil.

The costs involved in drilling the Federal 19-1 well were $16,100. At the time operations were discontinued on the Federal 19-4 well, our drilling costs were $34,400. In addition to the actual drilling costs on lease NM 25447 the lease bonus was $11,290 and the annual rentals were $3,200 for the primary term of the lease. Our costs in drilling and abandoning the 29-4 well were $20,500 in addition to the lease bonus of $2,892 and annual rentals of $2,800. Our investment in leases NM 25447 and NM 25452 is $91,100.

Hixon Development Company requests that favorable consideration be given S. 1941 for several reasons:
Over $90,000 has already been risked in an effort to develop new reserves on these Federal lands. This risk and investment by us and the potential success is what now gives value to the leases.

HDC has existing oil and gas production in San Juan County and reinstatement of these leases will undoubtedly ensure the timely and orderly production from and further development of the subject leases.

If the bill passes, Hixon Development Company can assure this subcommittee that the necessary drilling will be completed within 120 days of notice of reinstatement. Should these leases not be reinstated, this potential production may never be established.

Again, thank you for your time and attention to this macter which is of utmost importance to Hixon Development Company. I will be happy to answer any questions you may have.

Senator WARNER. Mr. Clyde Aylesworth, S. 2146.

STATEMENT OF CLYDE AYLESWORTH, BOARD OF DIRECTORS, TOLEDO MINING CO.

Senator WARNER. Is there anyone appearing in opposition to this bill? There appears to be no one. We will take your statement in full.

Mr. AYLESWORTH. Yes, sir.

Senator WARNER. And there are amendments, nontechnical and formal and technical.

Mr. RUSSELL. We are suggesting one nontechnical amendment that would amend the bills to condition it such that any extension of the lease on the granting of a permit to drill and on authorizing the Secretary of the Interior to insert the additional restricted stipulations in the lease as may be suggested by the Department of Agriculture Forest Service.

Mr. AYLESWORTH. We have no objection.

Senator WARNER. No objection to either. Do you have anything further to add, sir?

Mr. AYLESWORTH. No, sir.

Mr. RUSSELL. There are a few technical amendments. That is the oil and gas or oil or gas problem again and there is a lease number problem. The lease number should be W66250 instead of the other number listed.

Senator WARNER. Are those acceptable to you?

Mr. AYLESWORTH. Yes, sir.

Senator WARNER. Anything further you wish to add?

Mr. AYLESWORTH. No, sir.

Senator WARNER. Thank you. We will accept your statement in full.

Mr. AYLESWORTH. Thank you.

[The prepared statement of Mr. Aylesworth follows:]

Statement of Clyde Aylesworth,
Member of the Board of Directors
Toledo Mining Company
Salt Lake City, Utah
before Energy and Mineral Resources Subcommittee
of the Senate Energy and Natural Resources Committee
May 7, 1982

Mr. Chairman and Members of the Subcommittee:

I welcome this opportunity to address the Subcommittee in support of S. 2146, a bill to extend the terms of four federal oil and gas leases in Wyoming held by Toledo Mining Company. I am a member of the Board of Directors of Toledo Mining Company of Salt Lake City. This is a small, publicly-held energy development company. Most of its shareholders reside in Utah and other Western states.

Mr. Chairman, S. 2146 deserves favorable action by the Subcommittee because it would correct a series of misrepresentations to Toledo by some of its working partners, which caused the company to come within 48 days of losing its leases. Please understand that these leases have not yet expired; they are presently within a routine administrative suspension by the U.S. Department of the Interior to facilitate normal environmental studies before drilling. This suspension stops the running of the lease terms, but the suspension will be lifted soon and the lease will then expire in 48 days.

The Toledo problem arose because Toledo reasonably relied on incorrect written and oral representations of drilling partners in 1978 and 1979 that actions of these other companies, through a complicated acreage contribution agreement, would perpetuate the four leases named in this bill. When the Company learned its actual obligations in 1980, Toledo immediately (and at considerable expense) began compliance with all legal and environmental requirements to maintain its leases by preparing for actual drilling to discover paying quantities of oil or gas.

Drilling on these leases will, however, be aimed at oil and gas over 18,000 feet deep, and cannot possibly succeed in the 48 days remaining after the administrative suspension is lifted.

Both the U.S. Department of the Interior and Toledo agree there is no administrative solution for this problem. Without the legislation, the leases will very soon expire.

The factual background of this problem confirms that equity and fairness would be served by enacting S. 2146 and extending the terms of these leases. The Congress has several times passed similar legislation, even reinstating leases that, unlike Toledo's leases, have actually expired.

Mr. Chairman, we note also that there are more advanced drilling units near the Toledo project. The termination of the Toledo leases would seriously disrupt a potentially sig-

nificant integrated drilling region and wipe out Toledo's considerable investment in the project. Enactment of S. 2146 will prevent these unfortunate events, and also further the national interest of domestic energy production by a small, independent company.

Thank you very much for the opportunity to address the Subcommittee in support of this bill. We urge favorable action.

Senator WARNER. On S. 2481, we have Mr. Monte Swetnam.

STATEMENT OF MONTE N. SWETNAM, SENIOR VICE PRESIDENT, EXPLORATION, TESORO PETROLEUM CORP.

Senator WARNER. Anybody here in opposition to this bill? We will accept your statement in full. I understand that there is a technical amendment.

Mr. SWETNAM. Yes, sir.

Mr. RUSSELL. Yes, sir, that is right. There are two technical amendments. First, since 2481 would extend the lease for 1 year from the date the lessee received notice of the lease expiration and "so long thereafter as said lessee shall pay the annual rental or as oil and gas as produced in paying quantities."

We recommend the phrase "as said lessee shall pay the annual rental or" be deleted because it duplicates the lease provision. That is the technical amendment.

Senator WARNER. Mr. Swetnam.

Mr. SWETNAM. I have no problem with that.

Senator WARNER. Do you accept it?

Mr. SWETNAM. Yes, sir.

Senator WARNER. Do you wish to add anything further in your statement?

Mr. SWETNAM. No, sir.

Mr. RUSSELL. The other technical amendment is oil or gas and that is it.

Senator WARNER. Do you accept that, sir?

Mr. SWETNAM. Yes, sir.

Senator WARNER. Anything further on S. 2481?

Mr. SWETNAM. No, sir.

Senator WARNER. Thank you very much.

Mr. SWETNAM. Thank you.

[The prepared statement of Mr. Swetnam follows:]

STATEMENT BY

MONTE N. SWETNAM
SENIOR VICE PRESIDENT-EXPLORATION
TESORO PETROLEUM CORPORATION

BEFORE THE

SENATE ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

HEARING ON

S. 2481

To Provide for the Reinstatement and Validation
of United States Oil and Gas Lease No. W 61985.

MAY 7, 1982

Mr. Chairman and members of this subcommittee. My name is Monte N. Swetnam, and I am the Senior Vice-President of Exploration for Tesoro Petroleum Corporation. Tesoro is an independent oil company engaged, in part, in crude oil exploration and production. I appreciate the opportunity you have given me to testify in favor of the bill before you today.

Tesoro purchased Federal Lease W61985 in January of 1978 from a simultaneous oil and gas lease lottery winner and has to date invested over fifty thousand dollars in developing the Lease. The Lease has an anniversary date, for purposes of annual rentals, of February 1st. Since it acquired the Lease in 1978, Tesoro has always made its annual rental payments on a timely basis.

As a result of successful efforts by Tesoro and Transcontinental Oil Corporation to develop the Northwest House Creek Prospect area within which Lease W61985 is located, Tesoro received notice on August 13, 1981, from the Department of Interior's Bureau of Land Management that the Lease had been redesignated as falling partly or wholly within a Known Geologic Structure, and that the annual rental due, henceforth, would be $880.00, rather than $440.00. Because of an internal reorganization within Tesoro's Denver office caused by a large turnover and resultant shortage of personnel, at a time when the Denver office was coordinating the drilling of four wells in Montana, the August 13, 1981, letter was misfiled and was not brought to the attention of the

proper parties. On December 17, 1981, Tesoro thus forwarded to the BLM, Check No. 16504, in the amount of $440.00, covering the full amount of the non-KGS $1 per year rental on the 440 acres covered by the Lease, in accordance with the terms of the Lease. The BLM subsequently forwarded to the Denver Tesoro office an invoice for $880.00. The invoice was received on January 11, 1982, and was filed as paid by a "temporary" lease analyst who apparently noted that the annual rental payment for 1982 had already been paid a month earlier.

It should be noted that Tesoro had prepared an assignment of rights in the Lease to Transcontinental Oil Corporation, and the same was received by the Cheyenne, Wyoming BLM office on June 19, 1981. The BLM, however, did not act during the ten months it held the assignment.

On March 8, 1982, thirty-six (36) days after the Lease's expiration date, Tesoro's Denver office received a letter from the Cheyenne, Wyoming, BLM office notifying Tesoro that the Lease had automatically expired for failure "to pay the rental on or before the anniversary date of such lease." In the same letter to Tesoro, the BLM noted that it had failed to act on the assignment of rights from Tesoro to Transcontinental Oil Company (Transco), which it had received from Tesoro on June 19, 1981, but stated that the issue was now moot, as the Lease had terminated.

Although the Cheyenne BLM office had full authority and discretion to grant a reinstatement, the advice it gave Tesoro subsequently indicated that it chose not to do so. As a result of acting on the Cheyenne office's advice, Tesoro was precluded from seeking a reinstatement of the lease. The only relief available to Tesoro from the tremendous hardship of losing a lease it has spent considerable time and money to develop, is an act of Congress.

S. 2481, before you today, would reinstate and validate Federal Lease W61985, developed by Tesoro, thus eliminating a tremendous hardship to Tesoro. The Bill would in no manner harm the Department of Interior or any other party, and would have no tax or monetary consequence on the United States Government. I respectfully request your approval of the Bill.

Mr. SINDELAR. At the conclusion of the hearing, I hope the representatives of the various lease applicants would remain. I would like to talk with them to get some further information, if you don't mind.

Senator WARNER. Is there anyone desiring to appear on behalf or for or against any of these leases who has not been given an opportunity? If not the meeting is adjourned.

[Whereupon, at 10:10 a.m., the hearing was adjourned.]

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